

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

In the Matter of

Policies and Rules Implementing  
 the Telephone Disclosure and  
 Dispute Resolution Act

CC Docket No. 93-22  
 RM-7990

**REPLY COMMENTS OF COX ENTERPRISES, INC.**

Cox Enterprises, Inc. ("Cox"), by its attorneys, hereby submits its reply comments in the above-captioned proceeding.<sup>1/</sup> Cox submits these reply comments in response to the comments filed by various parties calling for unnecessary limitations on the provision of local pay-per-call services.

**I. Introduction**

In the *Notice*, the Commission requested comment on a variety of issues relating to the implementation of the Telephone Disclosure and Dispute Resolution Act of 1992 (the "TDDRA").<sup>2/</sup> Cox filed comments that responded to several of those issues. Cox continues to support the positions laid out in its comments, but these reply comments focus more specifically on the question of how the Commission should treat intrastate pay-per-call services.

In their comments, some parties argue that the Commission should reach out to regulate intrastate services. As described in the comments, Cox believes that Congress did not intend for the Commission to regulate those

<sup>1/</sup> *Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act*, Notice of Proposed Rulemaking and Notice of Inquiry, CC Docket No. 93-22, RM-7990, rel. Mar. 10, 1993 (the "*Notice*").

<sup>2/</sup> Public Law No. 102-556, 1992 U.S.C.C.A.N. (106 Stat.) 4181.

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services and that such regulation is not appropriate. Careful review of the facts

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providers of lawful and legitimate pay-per-call services." *Notice* at ¶ 56. As indicated by local exchange carriers, designating specific, limited central office codes for pay-per-call services will cause substantial disruption in the way these calls are routed.<sup>5/</sup> Such a system also would involve substantial relocation costs for legitimate information providers who use different office codes than those that might be designated by the Commission.<sup>6/</sup>

These comments also indicate that allowing carriers to assign information services to a variety of central office codes benefits the public. The primary benefit is that some carriers already use systems for assigning certain types of services to particular numbers.<sup>7/</sup> For the Commission to assign uniform office codes for these intrastate services could create more, rather than less, customer confusion in those areas where consumers already know which numbers are used for particular types of pay-per-call services.

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<sup>5/</sup> Comments of Ameritech at 2-3; Comments of Pacific Bell at 3.

<sup>6/</sup> Comments of Ameritech at 3. In addition, the inappropriateness of trying to designate specific central office codes for intrastate services is underscored by the National Association of Attorneys General's proposal to exempt certain Mass Announcement Services from the prefix limitation. Comments of NAAG at 4 n.2. There is no warrant for exempting these services from the requirements of the TDDRA unless all low-cost services are exempted. Moreover, such an exemption would benefit information services provided by local exchange carriers at the expense of similar services provided by competitive information providers. This would be inconsistent with the Commission's efforts to ensure a level playing field for all information providers. See Comments of Cox at 8.

<sup>7/</sup> For example, Bell Atlantic uses 915 and 556 for adult services and Southwestern Bell uses 540 and 550 for various intrastate services. Comments of Bell Atlantic at 2; Comments of Southwestern Bell at 5.

Conversely, claims that providing pay-per-call services over numbers other than 900 and 976 will create customer confusion are unfounded. For instance, Bell Atlantic, which provides intrastate pay-per-call services over a number of different office codes, has not experienced complaints from customers.<sup>8/</sup> Moreover, the preamble requirements to be adopted by the Federal Trade Commission will further help to assure that consumers will not be misled as to the nature of a call made to a local information service provided on an unfamiliar number.<sup>9/</sup>

### III. Limiting Intrastate Services to Specified Prefixes Would Stifle Innovation.

As the Commission is aware, Cox has been a pioneer in the use of abbreviated dialing arrangements for local information services.<sup>10/</sup> The Commission has tentatively concluded that the use of abbreviated dialing arrangements in general, and N11 in particular, is in the public interest.<sup>11/</sup> If

innovations such as N11.<sup>12/</sup> This would be a great loss for the millions of Americans who are expected to use these services.

In addition to foreclosing technical innovations, limiting local services to the 900 service access code would needlessly increase the cost of these services to consumers. Today these services only require the provider to contract with the local exchange carrier in the market it wishes to serve. If all pay-per-call services were required to use the 900 service access code, local information providers would be required to contract with interexchange carriers for what should be a local call.<sup>13/</sup>

At the same time, the costs of obtaining a 900 number can be prohibitive for smaller interexchange carriers and information providers.<sup>14/</sup> Therefore, if the Commission chose to limit intrastate pay-per-call services to the 900 service access code, it would force low cost information providers out of business. This result would be inconsistent with the TDDRA, which is most concerned with high cost services.<sup>15/</sup>

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<sup>12/</sup> Comments of Cox at 5-6. *See also* Comments of Tele-Publishing, Inc. at 3; Comments of NAIS at 15; Comments of Southwestern Bell at 5-6 n.7.

<sup>13/</sup> Comments of Information Industry Association at 13.

<sup>14/</sup> Comments of Pilgrim Telephone, Inc. at 5-7.

<sup>15/</sup> The TDDRA specifically exempts certain information services from FTC regulations if the service is provided at a "nominal" cost. TDDRA, §201(a)(5)(B). The legislative history of the predecessor bills considered charges of less than two or three dollars to be nominal. *See* H.Rep. 430, 102d Cong., 2d Sess. 12 (1992); S.Rep. 190, 102d Cong., 1st Sess. 13 (1991). The FTC has proposed that the exemption should apply to services that charge less than two dollars per call. *See* (continued...)

Finally, as technology develops and designated numbers reach their capacity, it may be necessary for the Commission to add to the list of numbers designated for interstate pay-per-call use. Rather than initiating new rulemaking proceedings in the future, the Commission should take this opportunity to establish procedures to permit parties to request that additional prefixes or office codes be designated for pay-per-call use.

#### **IV. Conclusion**

The regulations adopted by the Commission in this proceeding will make substantial progress toward curbing the abusive practices that have become associated with the provision of interstate pay-per-call services. However, in regulating these abusive practices, the Commission should not limit the provision of innovative local services that are in the public interest. Cox Enterprises, Inc. respectfully submits that the proposals in these reply comments will help to

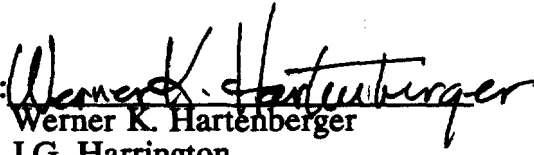
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<sup>15/</sup> (...continued)

achieve the goals of the TDDRA without unduly restricting legitimate local pay-per-call services and that the Commission should adopt rules in this proceeding that are consistent with the proposals in Cox's comments and herein.

Respectfully submitted,

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May 4, 1993

## **CERTIFICATE OF SERVICE**

I, Michelle A. Avinger, a secretary in the law firm of Dow, Lohnes & Albertson, hereby certify that on this 4th day of May, 1993, I caused a copy of the foregoing Reply Comments of Cox Enterprises, Inc. to be sent via first class mail, postage pre-paid or via hand delivery to the following:

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